

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6462 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 : No

S L GUPTA

Versus

OIL & NATURAL GAS COMMISSION

Appearance:

MR IS SUPEHIA for Petitioner

NOTICE SERVED for Respondent No. 1, 2

CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 07/04/98

ORAL JUDGEMENT

1. The petitioner who was a Store Keeper was aggrieved by his supersession for the post of Stores & Purchase Officer in the year 1985 and he claimed that he should have been promoted as Stores & Purchase Officer in 1985 and he should have been given all consequential benefits and that he should have been further promoted to the post of Deputy Director (M.M.) with effect from 1.1.1989 if found suitable, with all consequential

benefits.

2. In the affidavit-in-reply, it is stated that the petitioner was called for interview, but he was not found suitable for appointment. The Departmental Promotion Committee had considered all such eligible officers, but those who were not found suitable and declared unfit for promotion were denied the promotion. It is stated that those persons had represented to reconsider their cases for promotion from 1.1.1985. On their representation, the Commission had reviewed their cases and had relaxed the criteria of one A- and two B + ACR gradings while reviewing their cases. 'A' meant 'Very Good' and 'B' meant 'Good'. As the petitioner did not come up to even this standard, he was not promoted.

3. During the pendency of the petition, the criterion was further relaxed and the petitioner had been given promotion with effect from 1.1.1985 and he had been paid the monetary benefits also. The petitioner has also retired on superannuation on 31.8.1992. Therefore, the grievance regarding denial of first promotion does not survive.

4. The learned Counsel for the respondents submits that the petition has now become infructuous. However, the learned Counsel for the petitioner submits that his case for promotion in the year 1989 when his juniors were promoted is required to be considered. The petitioner is at serial no.60 in the seniority list and persons at serial nos.265, 269 and 413 were promoted on 1.1.1989. They had been promoted as Stores & Purchase Officer with effect from 1.1.1989.

5. The criteria for promotion to the post of Deputy Director is 75% by seniority-cum-fitness and 25% by merit. For this 25% to be filled in by merit, the requirement of the service in the lower cadre is 4 years and for 75% to be filled in by seniority-cum-fitness, the requirement is service of 6 years. Therefore, the question of the petitioner to be considered in the seniority-cum-fitness quota did not arise before 1991. In 1989, the promotion was purely on merit and though the petitioner was at serial no. 60, the persons at serial nos. 265, 269 and 413 were selected who superseded hundreds of persons. Since this is purely merit selection, no grievance in that respect would survive. The petitioner who was twice not found fit and suitable for promotion for the lower post of Stores & Purchase Officer, cannot be considered to be of such merit that he should have been promoted. The petitioner could be given

the promotion to the post of Stores & Purchase Officer only by relaxing the standard. Therefore, there is no case that the petitioner should have been promoted in the merit quota on completion of 4 years in the post of Stores & Purchase Officer.

6. As far as the promotions in the year 1991 are concerned, the persons junior to the petitioner came to be promoted only after the petitioner retired from service. Therefore, the petitioner cannot make any grievance against these persons.

7. Since there is no merit in any of the contentions for promotion to the post of Deputy Director, this petition fails and is dismissed. Rule discharged. No costs.

mhs/-